

From: Andy Longton
To: Microsoft ATR
Date: 1/23/02 3:50pm
Subject: Microsoft Settlement

I am deeply concerned with the current Proposed Final Judgment (PFJ) and request at a minimum a specific and limited change to the PFJ in section III.J (1).

After careful reading of the PFJ I am convinced that as-is it will do nothing to effectively remedy any of Microsoft's documented past or similar present and future illegal behaviors as shown in the Findings of Fact (FOF). At worst the PFJ sanctions and even encourages some of Microsoft's worst vices. Other companies may take the provisions of the PFJ as a green light to act similarly and cause additional harm to the consumer.

As a business owner with over 12 years of professional experience in the software industry, and as a user of products by Microsoft and talented persons outside of Microsoft, I know that Microsoft is inherently untrustworthy. Evidence of this can be found in the ineffectiveness of the first Department of Justice anti-trust trial, the proceedings and dishonest actions during both the first and second anti-trust trials, and the FOF from this second anti-trust trial.

In addition to whole heartedly agreeing with and being a co-signatory to the Open Letter composed by Dan Kegel and others (<http://www.kegel.com/remedy/letter.html>), here is my additional specific recommendation;

Section III.J (1)

This section allows Microsoft to unilaterally designate any API, software module, or source code as integral to security. Because of that one loophole, the remaining PFJ becomes largely ineffective.

Microsoft officer Bill Gates' recently made a publicized announcement that security is now the single top priority at Microsoft. As such, all software and APIs could sweepingly be designated as dealing with security and therefor could not be disclosed unless Microsoft wishes to.

Mr. Gates' statement should raise direct concern with the DOJ that if Section III.J is not substantially changed, Microsoft will take immediate and public advantage of it to thwart any other condition of the PFJ including any software changes needed by OEMs to customize the Windows desktop. Additionally, any interoperability between Microsoft products and other non-Microsoft products will touch on something Microsoft decides is a security issue -- allowing Microsoft to

potentially retaliate in court against those other products or to simply deny or change those interfaces as it did against both Lotus and Digital Research (now Caldera).

In addition, the whole concept of secret security devices has been thoroughly refuted. Security professionals find dubious value and quite a bit of harm in what is well known as "security through obscurity".

Security through obscurity is a bad idea simply because if the design of a security device isn't available for investigation, intentional and unintentional defects in the design can't be easily identified and fixed. Worse yet, unethical groups or individuals will discover any weakness and that person or group may not have the public's best interests at heart. Terrorist or organized crime groups would have the motivation to discover these secret weaknesses and exploit them -- further harming the public.

To emphasize this: Microsoft is well documented for leaving in "backdoors" and other security defects that are not changed till they cause public embarrassment and loss of sales to Microsoft. Some well known security faults still exist in shipping Microsoft products, but do not receive wide spread publicity. Because of that, Microsoft does not fix these defects.

With section III.J of the PFJ, Microsoft would have even less of a reason to fix these defects or to remove any current "backdoors" -- now or in the future.

While there are other areas of the PFJ that can be as troublesome as section III.J (1), this is the section that causes me the most concern.